

VACANCIES, PART DEUX

ALTERNATIVE APPROACHES TO COUNCIL VACANCIES

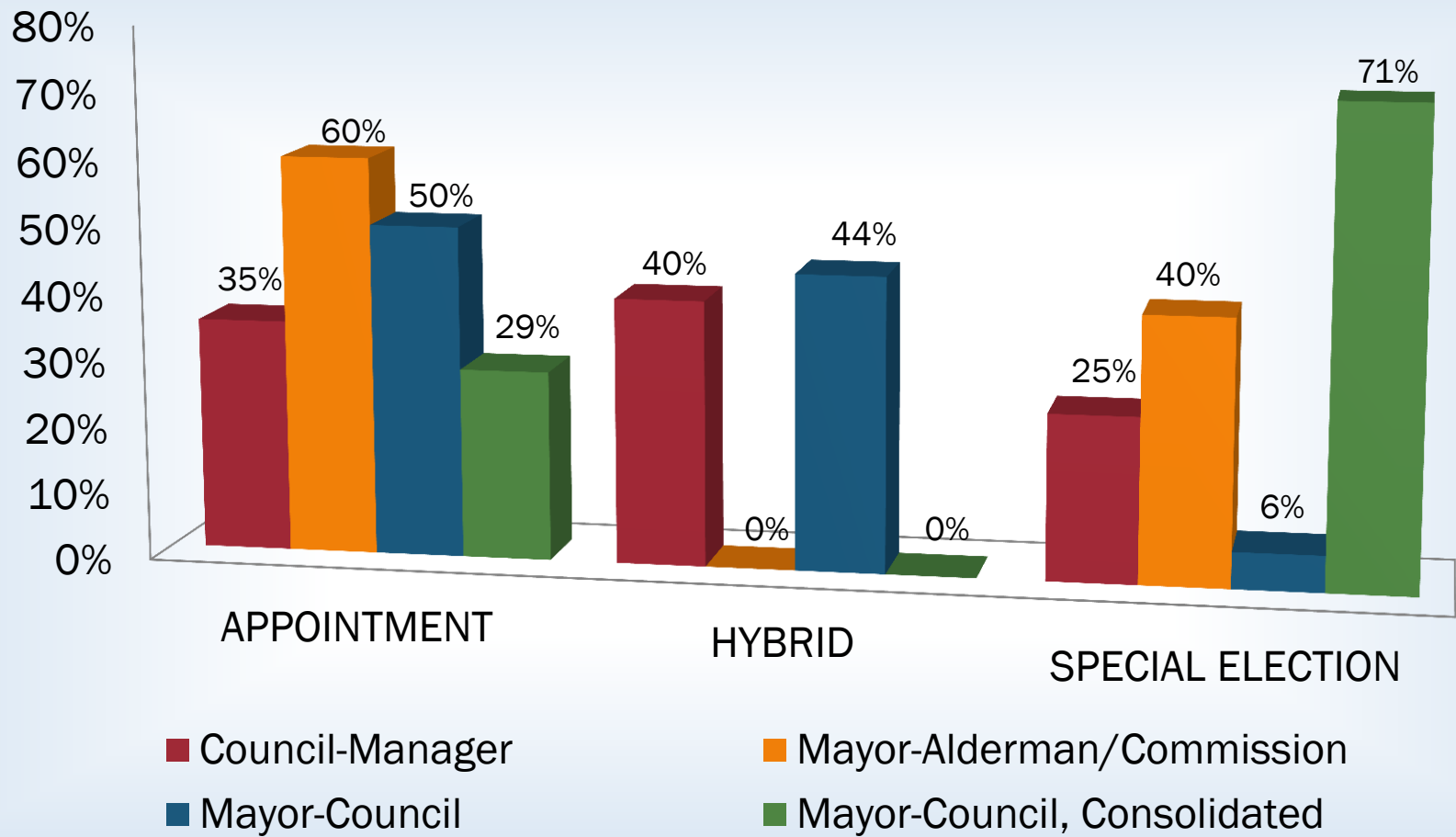
Bryan Clark, MSEM
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Mayor Andrew J. Ginther

COUNCIL VACANCY METHODS TOP 50 CITIES

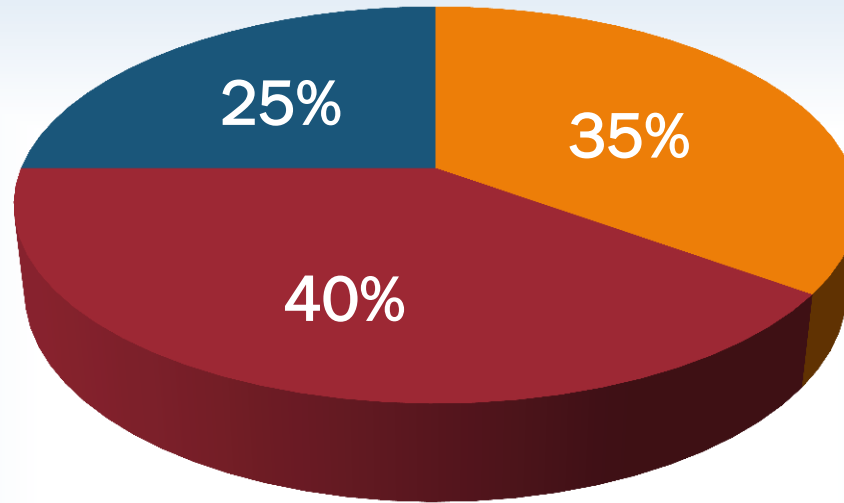
FORM OF GOVT	# OF INSTANCES	APPOINT	HYBRID	SPECIAL ELECTION
Council-Manager	20	7	8	5
Mayor-Alderman / Commission	5	3	0	2
Mayor-Council	18	9	8	1
Mayor-Council, Consolidated	7	2	0	5
ALL CITIES	50	21	16	13

COUNCIL VACANCY METHODS TOP 50 CITIES

FORM OF GOVT	# OF INSTANCES	APPOINT	HYBRID	SPECIAL ELECTION
Council-Manager	20	35%	40%	25%
Mayor-Alderman / Commission	5	60%	0%	40%
Mayor-Council	18	50%	44%	6%
Mayor-Council, Consolidated	7	29%	0%	71%
ALL CITIES	50	42%	32%	26%



VACANCIES, COUNCIL-MANAGER



■ APPOINTMENT ■ HYBRID ■ SPECIAL ELECTION

COUNCIL-MANAGER, TOP 50

Arlington

Austin

Charlotte

Dallas

El Paso

Fort Worth

Fresno

Kansas City

Las Vegas

Mesa

Oakland

Oklahoma City

Phoenix

Raleigh

Sacramento

San Antonio

San Jose

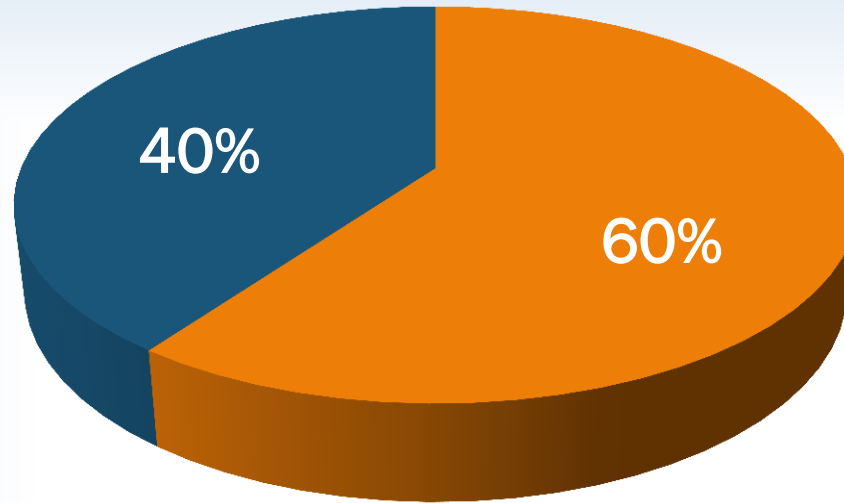
Tucson

Virginia Beach

Wichita



VACANCIES, MAYOR-ALDERMAN/COMMISSION



■ APPOINTMENT ■ HYBRID ■ SPECIAL ELECTION

MAYOR-ALDERMAN/COMMISSION, TOP 50

Chicago

Milwaukee

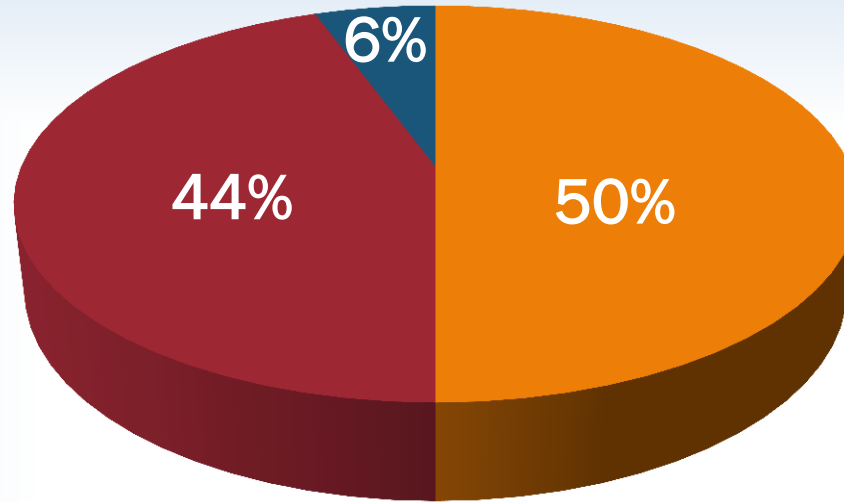
Miami (Consolidated, Partial)

Portland

San Francisco (Consolidated)



VACANCIES, MAYOR-COUNCIL



■ APPOINTMENT ■ HYBRID ■ SPECIAL ELECTION

MAYOR-COUNCIL, TOP 50

Albuquerque

Atlanta

Baltimore

Boston

Colorado Springs

Columbus

Detroit

Houston

Long Beach

Los Angeles

Memphis

Minneapolis

New Orleans

Omaha

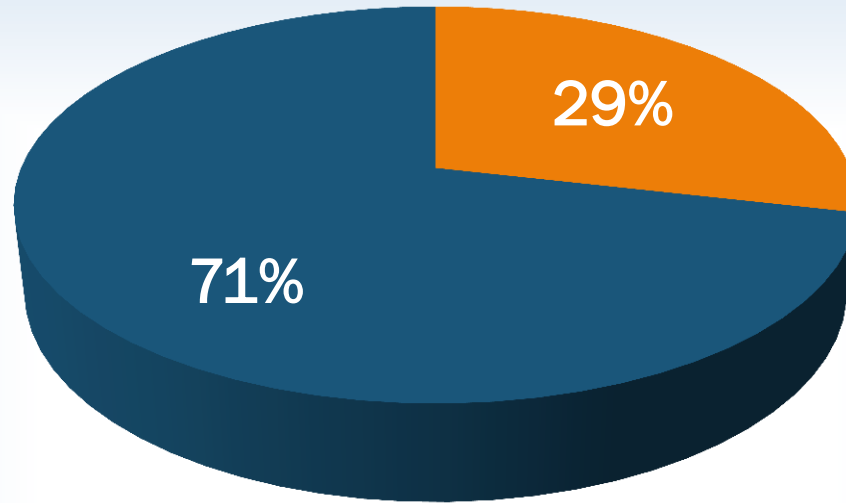
San Diego

Seattle

Tulsa

Washington DC

VACANCIES, MAYOR-COUNCIL, CONSOLIDATED



■ APPOINTMENT ■ HYBRID ■ SPECIAL ELECTION

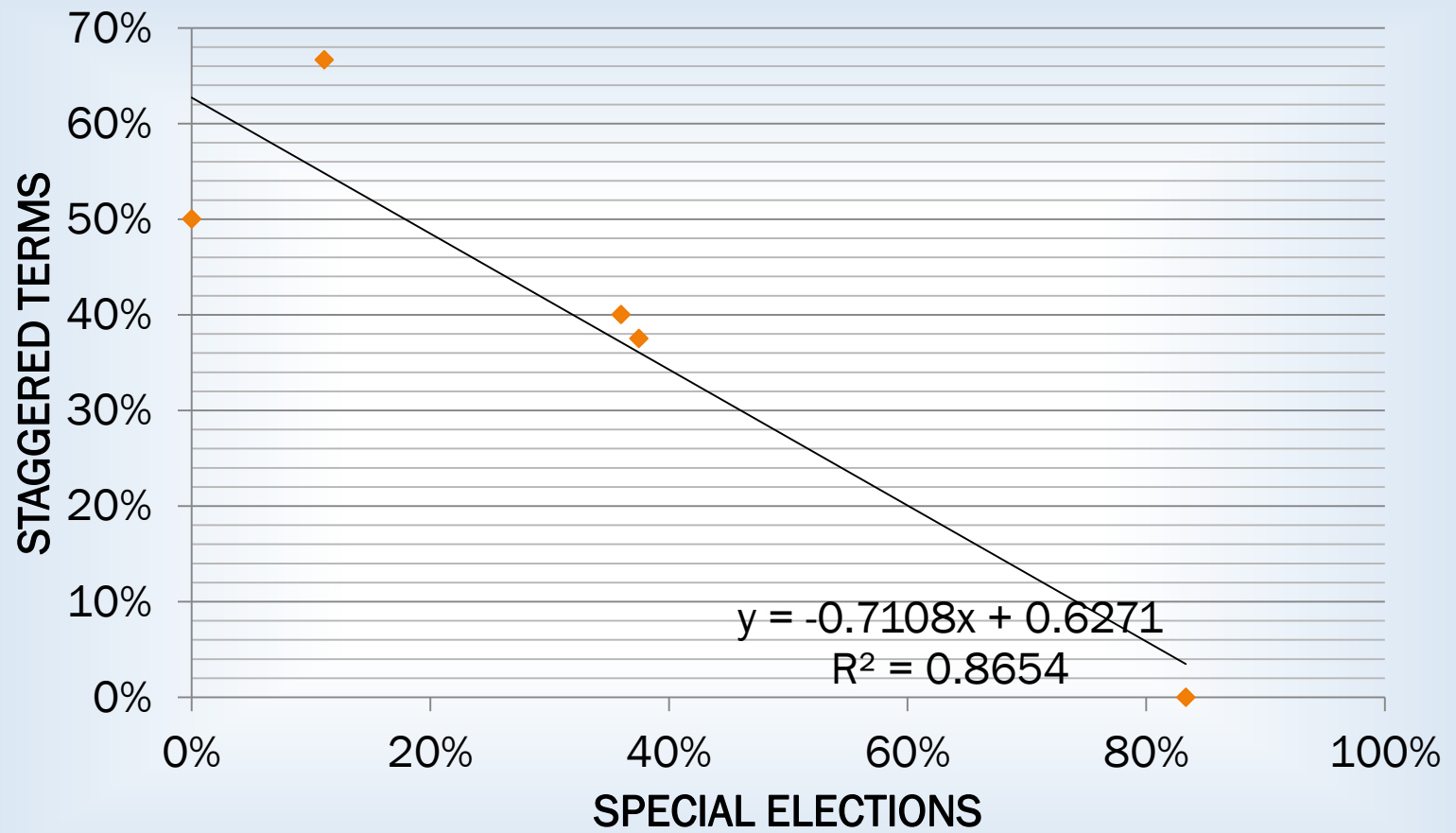
MAYOR-COUNCIL CONSOLIDATED, TOP 50

Denver
Indianapolis
Jacksonville
Louisville
Nashville
New York
Philadelphia

LINK: STAGGERED TERMS, SPECIALS, TOP 25

FORM OF GOVERNMENT	SPECIAL ELECTION	STAGGER TERMS?
Mayor-Council, Consolidated	83%	0%
Council-Manager	38%	38%
Mayor-Alderman/Commission	0%	50%
Mayor-Council	11%	67%
ALL CITIES	36%	40%

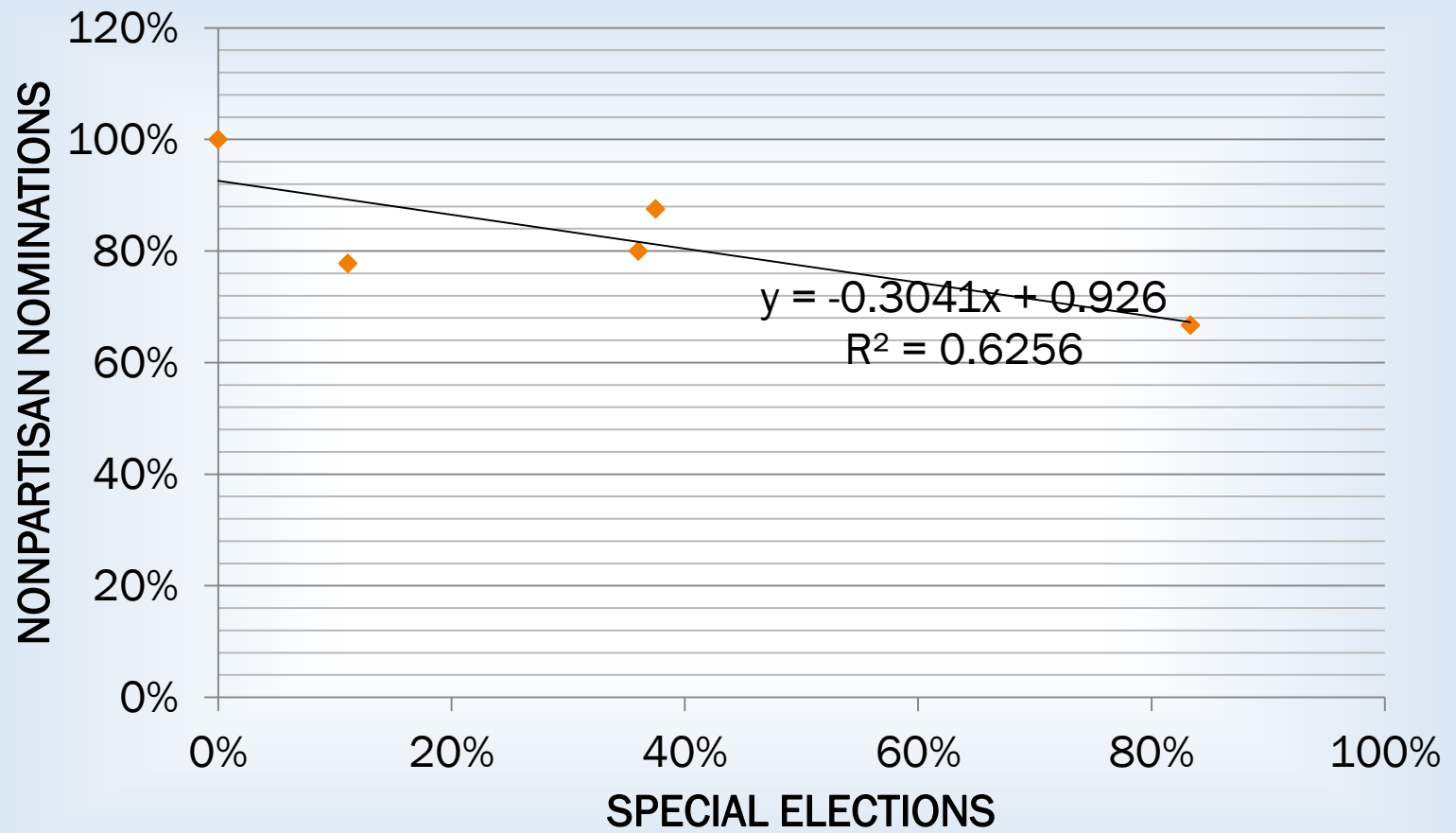
There is a statistically significant negative correlation between staggered terms and special elections to fill council vacancies. Cities with staggered terms are less likely to use special elections and vice versa.



LINK: NONPARTISAN, SPECIAL ELECTIONS, TOP 25

FORM OF GOVERNMENT	SPECIAL ELECTION	NONPARTISAN
Mayor-Council, Consolidated	83%	67%
Council-Manager	38%	88%
Mayor-Alderman/Commission	0%	100%
Mayor-Council	11%	78%
ALL CITIES	36%	90%

There is a statistically significant negative correlation between nonpartisan nominations and special elections to fill council vacancies. Cities with nonpartisan nominations are less likely to use special elections and vice versa.




METHODS OF FILLING VACANCIES

MOST COMMON METHODS IN TOP 50 CITIES

APPOINTMENT

PROVISION: An appointing authority – typically the remaining members of council or, in limited instances, the mayor or council president – vote to appoint a qualified elector to fill the vacancy.

VARIATIONS:

1. Appointment until a successor is sworn in after a special election at the next regular municipal election.
 2. Appointment until a successor is elected, with the successor immediately assuming office.
 3. Appointment for the entire unexpired term.
- 

APPOINTMENT


Top 50 Cities Utilizing the Appointment Method (21)

Albuquerque	Indianapolis	Raleigh
Baltimore	Los Angeles	San Francisco
Chicago	Louisville	San Jose
Colorado Springs	Memphis	Seattle
Columbus	Mesa	Tucson
Detroit	Miami	Virginia Beach
Fresno	Omaha	Wichita

HYBRID

PROVISION: The most common allows the council to appoint a qualified elector to fill the vacancy if less than one year of the term in office remains; otherwise, council must call a special election.

VARIATIONS:

1. Council given authority to appoint within a given time, with a special election if council doesn't act.
 2. Council given the option to either appoint or call a special election.
- 

HYBRID

Top 50 Cities Utilizing the Hybrid Method (16)

Atlanta	Las Vegas	Phoenix
Boston	Long Beach	Sacramento
Charlotte	Minneapolis	San Antonio
Fort Worth	New Orleans	San Diego
Houston	Oklahoma City	Tulsa
Kansas City		

SPECIAL ELECTION

PROVISION: An entity – typically the entire council or, in limited circumstances, the council president, city clerk or mayor – call for a special election to fill the unexpired term. No appointment is allowed prior to that special election.

VARIATIONS:

1. Requiring an election within a certain timeframe after the vacancy is finalized.
2. Aligning the election with existing election dates.

SPECIAL ELECTION

Top 50 Cities Utilizing the Special Election Method (13)

Arlington	Jacksonville	Oakland
Austin	Milwaukee	Philadelphia
Dallas	Nashville	Portland
Denver	New York	Washington DC
El Paso		

POTENTIAL ALTERNATIVE METHODS OF FILLING VACANCIES

OVERVIEW AND ASSESSMENT

LIMITED APPOINTMENT, CARETAKER

PROVISION: An entity votes to appoint a qualified elector to the fill the vacancy, but the person is ineligible to run to retain the seat. This may apply to an election for the unexpired term and/or for a new term.

VARIATIONS:

1. Handshake agreement that is nonbinding.
2. A charter provision that is legally binding.




LIMITED APPOINTMENT, CARETAKER

Top 50 Cities Utilizing the Limited Appointment, Caretaker Method
San Diego (limited)

Background:

The caretaker method applies in San Diego if a vacancy occurs in the final year of a councilmember's term; otherwise, a special election must be held. This is one of the most amended sections of the San Diego charter, having been amended 17 times since adoption. The caretaker provision was first added in 1994.



LIMITED APPOINTMENT, CARETAKER

PROS

- Removes any potential advantage of incumbency for an appointee
- Typically filled by a seasoned/retired public servant

CONS

- Will never face election, no accountability to voters
- Very limited pool of potential appointees
- Potential for a 2 year term as an appointee, yet no potential for election
- Only used in a limited capacity in a single top 50 cities

LIMITED APPOINTMENT, FIRST LOSER

PROVISION: An entity must vote to appoint the person with the most votes who did not win the office, provided the person is still qualified and willing to accept the appointment; otherwise, the entity appoints any qualified elector to fill the vacancy.

VARIATIONS:

None




LIMITED APPOINTMENT, FIRST LOSER

Top 50 Cities Utilizing the Limited Appointment, First Loser Method
Boston (limited)

Background:

The first loser method applies to Boston's At-Large Councilors who stand for election every 2 years. Staff could not find a single instance of its usage in modern history, while there have been numerous vacancies filled via special election in districts.



LIMITED APPOINTMENT, FIRST LOSER

PROS

- Appointee has stood for election
- Some linkage to the direct election of councilmembers


CONS

- Directly contradicts the electoral process by seating a candidate who lost
- In the case of a head-to-head race (like unexpired term), gives the election to the loser.
- May require appointment of a person unfit for office
- Removes any institutional or electoral checks/balances on the appointment process
- Only in one top 50 city, but no record of its usage

LIMITED APPOINTMENT, MAJORITY TRIGGER

PROVISION: An entity may vote to appoint a qualified elector to fill the vacancy unless it would result in a majority of the members being appointed without an intervening election. In that instance, special elections must be used to fill any vacancy until the next regular municipal election.

VARIATIONS:

1. Continuity of government plan whereby another elected official must call a special election for a new council if the entire current council is vacated due to death or disability.
 2. A similar provision if a majority of seats are vacated during the same time period.
 3. Authorizing the remaining members of council to appoint all vacancies during a national emergency.
- 

LIMITED APPOINTMENT, MAJORITY TRIGGER

Top 50 Cities Utilizing a Limited Appointment, Majority Trigger Method

Los Angeles	Fresno	Dallas
San Diego	Sacramento	Houston
San Jose	Long Beach	Milwaukee
San Francisco	Oakland	

Background:

California state law (CA Gov 36512) requires use of this provision in filling vacancies. Houston triggers a special election if more than $\frac{1}{2}$ of council is vacant. Dallas triggers a special if all of council is vacant. Milwaukee triggers authority to appoint only in a national emergency.

LIMITED APPOINTMENT, MAJORITY TRIGGER

PROS

- May be used along side the normal vacancy processes
- Ensures a majority of council has always been elected, even if first appointed
- Provides a continuity of government safeguard

CONS

- Does not alter the pros or cons of any vacancy process
- Most useful in a city without staggered election terms
- Creates separation of powers concerns (i.e., who decides council is vacant and calls for the election?)
- Special elections are costly in Ohio and may only take place for nonpartisan offices if no party designation is on the ballot

LIMITED APPOINTMENT, PUBLIC PROCESS

PROVISION: An entity may vote to appoint a qualified elector to fill a vacancy, provided that all of the following occur, in addition to the current appointment process: applications must be accepted and made public; council uses one or more public meetings where some subset of candidates are vetted, similar to a confirmation hearing; and council votes to make the appointment only after the public meeting(s).

VARIATIONS:

Numerous




LIMITED APPOINTMENT, PUBLIC PROCESS

Top 50 Cities Utilizing a Limited Appointment, Public Process Method
Various

Background:

Staff found a variety of requirements, including informal policies, city ordinances and charter requirements.



LIMITED APPOINTMENT, PUBLIC PROCESS

PROS

- May be used along with normal vacancy processes
- Removes any mystery surrounding the appointment process
- Gives public input prior to council appointments
- Mirrors the confirmation process used at the state and federal levels for cabinet appointees

CONS

- Requires a longer timeframe for appointment
- Does not change the underlying pros and cons of any vacancy process

UNFILLED VACANCY

PROVISION: The office must remain vacant until a successor has been elected, either at the next regular municipal election or at a special election for the unexpired term scheduled on the date of the next regular municipal election.

VARIATIONS:

None




UNFILLED VACANCY

Top 50 Cities Utilizing an Unfilled Vacancy Method
Nashville (limited)

Background:

Nashville, which has 40 councilmembers (5 elected at-large) does not allow the filling of a vacancy in the office of at-large councilmember. Of note, this is the most contentious and frequently amended section of the city charter. It has been amendment, in whole or in part, in 1965, 1988, 1994 (referendum), 1996 (referendum), and 2007 (referendum).



UNFILLED VACANCY

PROS

- Removes any potential advantage of incumbency for an appointee

CONS

- Potential for a vacancy lasting 2 years
- Potential for multiple vacancies at the same time
- Significantly disrupts council operations in ways that cannot be changed
- Leaves the city without full representation
- Only used in one top 50 city

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QUESTIONS?